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EXAMINER	
RANGREJ, SHEETAL	
ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/615,640	MERKIN, RICHARD	
	Examiner	Art Unit	
	Sheetal R. Rangrej	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/12/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Prosecution History Summary

1. Claims 1-28 are pending.

DETAILED ACTION

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 14-15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins (U.S. Patent No. 7,016,856) in view of Provost et al. (U.S. Patent No. 6,341,265).

4. As per claim 1, Wiggins teaches a method for administering health care to patients within a patient population such that utilization of health care resources available to care for said patients within said patient population are conserved, the method comprising the steps:

a) generating said patient population, said generation of said patient population comprising the steps:

i) receiving a request from an individual to become a patient within said patient population **(Wiggins: col. 11, 53-56)**;

ii) obtaining information from said individual in step (i) **(Wiggins: col. 11, 53-56; col. 11, 62-67)**;

iii) evaluating said data submitted in step (ii) **(Wiggins: col. 12, 14-25)**;

iv) enrolling said individual as a patient within said patient population **(Wiggins: col. 12, 14-21; col. 11, 66)**; and

v) repeating steps (i) - (iv) for a multiplicity of individuals **(Wiggins: col. 12, 14-25)**. The examiner interprets that the steps can be repeated for however many welcome packages the hospital receives to be enrolled.;

Wiggins does not teach b) receiving a request from a patient within said patient population generated in step a) for medical services; c) assessing said request made in step b) and determining whether said request substantiates a specified clinical event; d) submitting a code corresponding to a single, specified medical service to be rendered in response to the clinical event specified in step (c); e) evaluating the code submitted in step (d) for clinical and financial appropriateness); and f) responding to said submission made in step (d) based upon said evaluation made in step (e), said response comprising either approval or disapproval of the services to be rendered in relation to said code submitted in step (d).

Provost teaches b) receiving a request from a patient within said patient population generated in step a) for medical services **(Provost: figure 4A, 82)**; c) assessing said request made in step b) and determining whether said request substantiates a specified clinical event **(Provost: figure 4A, 86)**; d) submitting a code corresponding to a single, specified medical service to be rendered in response to the clinical event specified in step (c) **(Provost: col. 6, 2-7)**; e) evaluating the code submitted in step (d) for clinical and financial appropriateness **(Provost: col. 6, 8-11)**; and f) responding to said submission made in step (d) based upon said evaluation made in step (e), said response comprising either approval or disapproval of the services to be rendered in relation to said code submitted in step (d) **(Provost: col. 6, 12-28)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins and Provost. One of ordinary skill would have been motivated to combine these teachings because over the years, the delivery of health care services has shifted from individual physicians to large managed health maintenance organizations and this shift gives more complexity to the already complex health care system. A careful review of payment requests minimizes fraud and unintentional errors and provides consistency of payment for the same treatment. **(Provost: col. 1, 14-38)**

5. For claim 14, please see remarks of claim 1. Repeating a method does not change the invention as a whole.

6. As per claim 15, the method of claim 1 is as described. Wiggins does not teach wherein in step (e), said evaluation is conducted by a hospitalist or case manager.

Provost teaches wherein in step (e), said evaluation is conducted by a hospitalist or case manager **(Provost: col. 6, 2-7)**. The examiner interprets the medical technician to be the same as either a hospitalist or a case manager.

The motivation to combine is the same as claim 1.

7. For claim 20, please see remarks of claim 1.

8. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins (U.S. Patent No. 7,016,856) in view of Provost et al. (U.S. Patent No. 6,341,265) and further in view of Spurgeon (U.S. Patent No. 5,890,129).

9. As per claim 2, the method of claim 1 is as described. Wiggins and Provost do not teach wherein in step (a), substep (ii), said information comprises demographic information related to

said individual comprising the individual's age, sex, medical history and geographic vicinity pertaining to said individual's residence.

Spurgeon teaches wherein in step (a), substep (ii), said information comprises demographic information related to said individual comprising the individual's age, sex, medical history and geographic vicinity pertaining to said individual's residence **(Spurgeon: figure 5)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins in view of Provost with Spurgeon. One of ordinary skill would have been motivated to combine these teachings because managed care model requires constant exchange of large amounts of information to determine if the claims made by health care providers are covered and conform to actuarial guidelines of medically appropriate treatment regimens **(Spurgeon: col. 1, 58-64)**.

10. As per claim 3, the method of claim 2 is as described. Wiggins and Spurgeon do not teach wherein in step (a), substep (iii), said evaluation comprises comparing said information submitted in step (a), substep (ii) with eligibility criteria, ,said eligibility criteria defining a standard by which said individuals are compared for acceptance as a patient within said patient population.

Provost teaches wherein in step (a), substep (iii), said evaluation comprises comparing said information submitted in step (a), substep (ii) with eligibility criteria, ,said eligibility criteria defining a standard by which said individuals are compared for acceptance as a patient within said patient population **(Provost: col. 7, 41-50)**.

The motivation to combine is the same as claim 2.

11. Claims 4-7 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins (U.S. Patent No. 7,016,856) in view of Provost et al. (U.S. Patent No. 6,341,265) and further in view of Spurgeon (U.S. Patent No. 5,890,129) and Summerell et al. (U.S. Patent No. 5,937,387).

12. As per claim 4, the method of claim 2 is as described. Wiggins, Provost, and Spurgeon do not teach wherein in step (a), substep (iv), further comprises assigning a risk level to said patient.

Summerell teaches wherein in step (a), substep (iv), further comprises assigning a risk level to said patient **(Summerell: col. 4, 65 to col. 5, 18)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins in view of Provost with Spurgeon and Summerell. One of ordinary skill would have been motivated to combine these teachings because it provides a means to assess an individual's personal health habits and risk factors; estimate the individual's future risk of death, illness, or otherwise reduced quality of life, and provide counseling as to means of reducing this risk. These assessments take the form of mortality risk estimates and counseling phrases based upon relative risk. **(Summerell: col. 1, 43-50)**

13. As per claim 5, the method of claim 4 is as described. Wiggins, Provost, and Spurgeon do not teach wherein in step (a), substep (iv), said risk level assigned said patient is indicative of the anticipated utilization of resources said patient is projected to utilize while a member of said patient population.

Summerell teaches wherein in step (a), substep (iv), said risk level assigned said patient is indicative of the anticipated utilization of resources said patient is projected to utilize while a member of said patient population **(Summerell: col. 4, 15-29)**

The motivation to combine is the same as claim 4.

14. As per claim 6, the method of claim 3 is as described. Wiggins, Provost, and Spurgeon do not teach wherein in step (a), substep (iii), further comprises assessing the current state of health of said individual and anticipated future health of said individual by retrospectively examining the individual's prior medical history and prospectively examining the anticipated future medical needs of said individual.

Summerell teaches wherein in step (a), substep (iii), further comprises assessing the current state of health of said individual **(Summerell: col. 4, 20-25)** and anticipated future health of said individual by retrospectively examining the individual's prior medical history and prospectively examining the anticipated future medical needs of said individual **(Summerell: col. 3, 18-41)**.

The motivation to combine is the same as claim 4.

15. As per claim 7, the method of claim 5 is as described. Wiggins, Provost, and Spurgeon do not teach wherein following step (a), substep (v), such process further comprises step: (vi) periodically updating and reviewing information indicative of the health of said patients within said patient population and reassigning risk levels associated with said patients within said patient population.

Summerell teaches wherein following step (a), substep (v), such process further comprises step: (vi) periodically updating and reviewing information indicative of the health of

said patients within said patient population and reassigning risk levels associated with said patients within said patient population **(Summerell: col. 4, 42-64)**.

The motivation to combine is the same as claim 4.

16. As per claim 17, the method of claim 5 is as described. Wiggins, Provost, and Spurgeon do not teach wherein step (a) substep (iv) further comprises the step of charging a premium to said individual for becoming a member of said patient population.

Summerell teaches wherein step (a) substep (iv) further comprises the step of charging a premium to said individual for becoming a member of said patient population **(Summerell: col. 4, 65 to col. 5, 18)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins in view of Provost with Spurgeon and Summerell. One of ordinary skill would have been motivated to combine these teachings because joining will provide an economic alliance of health care organizations, as well as individual organizations within the alliance, to more efficiently and effectively deliver health care goods and services under varying reimbursement arrangements, practice guidelines and health plan requirements **(Wiggins: col. 1, 46-52)**.

17. As per claim 18, the method of claim 17 is as described. Wiggins, Provost, and Spurgeon do not teach wherein in said premium corresponds to said risk level assigned to said patient.

Summerell teaches wherein in said premium corresponds to said risk level assigned to said patient **(Summerell: col. 4, 65 to col. 5, 18)**.

The motivation to combine is the same as claim 17.

18. Claims 8-13, 16, 19, and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggins (U.S. Patent No. 7,016,856) in view of Provost et al. (U.S. Patent No. 6,341,265) and further in view of Summerell et al. (U.S. Patent No. 5,937,387).

19. As per claim 8, the method of claim 1 is as described. Wiggins and Provost to not teach wherein in step (c), said assessment is made by a primary care physician.

Summerell teaches wherein in step (c), said assessment is made by a primary care physician **(Summerell: col. 5, 45-52)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins in view of Provost with Summerell. One of ordinary skill would have been motivated to combine these teachings because it provides a means to assess an individual's personal health habits and risk factors; estimate the individual's future risk of death, illness, or otherwise reduced quality of life, and provide counseling as to means of reducing this risk. These assessments take the form of mortality risk estimates and counseling phrases based upon relative risk. **(Summerell: col. 1, 43-50)**

20. As per claim 9, the method of claim 8 is as described. Wiggins and Summerell do not teach wherein in step (d), said code represents a single, standardized medical service to be rendered in relation to a single, exclusive clinical event.

Provost teaches wherein in step (d), said code represents a single, standardized medical service to be rendered in relation to a single, exclusive clinical event **(Provost: col. 9, 39-43; col. 9, 45-58)**.

Therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wiggins in view of Provost with Summerell. One of ordinary skill would have been motivated to combine these teachings because over the years, the delivery of health care services has shifted from individual physicians to large managed health maintenance organizations and this shift gives more complexity to the already complex health care system. A careful review of payment requests minimizes fraud and unintentional errors and provides consistency of payment for the same treatment. **(Provost: col. 1, 14-38)**

21. As per claim 10, the method of claim 9 is as described. Wiggins and Summerell do not teach wherein in step (d), said code comprises a CPT code.

Provost teaches wherein in step (d), said code comprises a CPT code **(Provost: col. 9, 53-58)**.

The motivation to combine is the same as claim 9.

22. As per claim 11, the method of claim 8 is as described. Wiggins and Summerell do not teach wherein in step (f) further comprises the step of determining whether to provide a reimbursement to said primary care physician for said services sought to be rendered in relation to said code submitted in step (c).

Provost teaches wherein in step (f) further comprises the step of determining whether to provide a reimbursement to said primary care physician for said services sought to be rendered in relation to said code submitted in step (c) **(Provost: col. 11, 19-25)**.

The motivation to combine is the same as claim 9.

23. As per claim 12, the method of claim 11 is as described. Wiggins and Summerell do not teach wherein in step (e), said evaluation of said code comprises reviewing said code submitted in step (d) to ensure against abusive billing practices.

Provost teaches wherein in step (e), said evaluation of said code comprises reviewing said code submitted in step (d) to ensure against abusive billing practices **(Provost: col. 10, 24-34)**.

The motivation to combine is the same as claim 9.

24. For claim 13, please see citation for claim 12.

25. As per claim 16, the method of claim 8 is as described. Provost and Summerell do not teach wherein in step (a) said primary care physician is a member of a network of physicians contracted to render medical services on behalf of a health plan, health maintenance organization, or government sponsored health care program.

Wiggins teaches wherein in step (a) said primary care physician is a member of a network of physicians contracted to render medical services on behalf of a health plan, health maintenance organization, or government sponsored health care program **(Wiggins: col. 5, 35-42)**.

26. As per claim 19, the method of claim 9 is as described. Wiggins and Summerell does not teach wherein in step (c), said code corresponds to a single medical service rendered exclusively by said physician.

Provost teaches wherein in step (c), said code corresponds to a single medical service rendered exclusively by said physician **(Provost: col. 9, 39-43; col. 9, 45-58)**.

The motivation to combine is the same as claim 9.

27. For claim 21-23, please see remarks of claims 8-10, respectively.

28. For claims 24-25, please see remarks of claims 12-13, respectively.

29. For claims 26-26, please see remarks of claims 14-16, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheetal R. Rangrej whose telephone number is 571-270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SRR SRR 5/23/07

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